MTMP services to pharmacists and others upon request. Reports of these amounts are protected under the provisions of section 1927(b)(3)(D) of the Act.

(6) *MTMP reporting.* A Part D sponsor must provide CMS with information regarding the procedures and performance of its MTMP, according to guidelines specified by CMS.

(e) *Exception for private fee-for-service MA plans offering qualified prescription drug coverage.* In the case of an MA plan described in §422.4(a)(3) of this chapter providing qualified prescription drug coverage, the requirements under paragraphs (b) and (d) of this section do not apply.

[70 FR 4525, Jan. 28, 2005, as amended at 75 FR 19818, Apr. 15, 2010; 75 FR 32860, June 10, 2010; 76 FR 21573, Apr. 15, 2011; 77 FR 22169, Apr. 12, 2012]

§423.154 Appropriate dispensing of prescription drugs in long-term care facilities under PDPs and MA–PD plans.

(a) *In general.* Except as provided in paragraph (b) of this section, when dispensing covered Part D drugs to enrollees who reside in long-term care facilities, a Part D sponsor must—

(1) Require all pharmacies servicing long-term care facilities, as defined in §423.100 to—

(i) Dispense solid oral doses of brand-name drugs, as defined in §423.4, to enrollees in such facilities in no greater than 14-day increments at a time;

(ii) Permit the use of uniform dispensing techniques for Part D drugs dispensed to enrollees in long-term care facilities under paragraph (a)(1)(i) of this section as defined by each of the long-term care facilities in which such enrollees reside; and

(2) Collect and report information, in a form and manner specified by CMS, on the dispensing methodology used for each dispensing event described by paragraph (a)(1) of this section, and on the nature and quantity of unused brand and generic drugs, as defined in §423.4, dispensed by the pharmacy to enrollees residing in a LTC facility. Reporting on unused drugs is waived for Part D sponsors for drugs dispensed by pharmacies that dispense both brand and generic drugs, as defined in §423.4, in no greater than 7-day increments.

(b) *Exclusions.* CMS excludes from the requirements under paragraph (a) of this section—

(1) Solid oral doses of antibiotics; or

(2) Solid oral doses that are dispensed in their original container as indicated in the Food and Drug Administration Prescribing Information or are customarily dispensed in their original packaging to assist patients with compliance (for example, oral contraceptives).

(c) *Waivers.* CMS waives the requirements under paragraph (a) of this section for pharmacies when they service intermediate care facilities for the mentally retarded (ICFs/IID) and institutes for mental disease (IMDs) as defined in §435.1010 and for I/T/U pharmacies (as defined in §423.100).

(d) *Applicability date.* The applicability date for this section is January 1, 2013. Nothing precludes a Part D sponsor and pharmacy from mutually agreeing to an earlier implementation date.

(e) *Copayments.* Regardless of the number of incremental dispensing events, the total cost sharing for a Part D drug to which the dispensing requirements under this paragraph (a) apply must be no greater than the total cost sharing that would be imposed for such Part D drug if the requirements under paragraph (a) of this section did not apply.

(f) *Unused drugs returned to the pharmacy.* The terms and conditions that must be offered by a Part D sponsor under §423.120(a)(5) must include provisions that address the disposal of drugs that have been dispensed to an enrollee in a long-term care facility but not used and which have been returned to the pharmacy, in accordance with Federal and State regulations, as well as whether return for credit and reuse is authorized where permitted under State law.

[76 FR 21573, Apr. 15, 2011]

§423.156 Consumer satisfaction surveys.

Part D contracts with 600 or more enrollees as of July of the prior year must contract with approved Medicare Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey

vendors to conduct the Medicare CAHPS satisfaction survey of Part D plan enrollees in accordance with CMS specifications and submit the survey data to CMS.

[75 FR 19818, Apr. 15, 2010]

§ 423.159 Electronic prescription drug program.

(a) *Definitions.* For purposes of this section, the following definitions apply:

Dispenser means a person or other legal entity licensed, registered, or otherwise permitted by the jurisdiction in which the person practices or the entity is located to provide drug products for human use by prescription in the course of professional practice.

Electronic media has the same meaning given this term in 45 CFR 160.103.

E-prescribing means the transmission using electronic media, of prescription or prescription-related information between a prescriber, dispenser, pharmacy benefit manager, or health plan, either directly or through an intermediary, including an e-prescribing network. E-prescribing includes, but is not limited to, two-way transmissions between the point of care and the dispenser.

Electronic prescription drug program means a program that provides for e-prescribing for covered Part D drugs prescribed for Part D eligible individuals.

Prescriber means a physician, dentist, or other person licensed, registered, or otherwise permitted by the U.S. or the jurisdiction in which he or she practices, to issue prescriptions for drugs for human use.

Prescription-related information means information regarding eligibility for drug benefits, medication history, or related health or drug information for Part D eligible individuals.

(b) [Reserved]

(c) *Requirement.* Part D sponsors must support and comply with electronic prescription standards relating to covered Part D drugs for Part D enrollees developed by CMS once final standards are effective.

(d) *Promotion of electronic prescribing by MA-PD plans.* An MA organization offering an MA-PD plan may provide for a separate or differential payment to a participating physician that prescribes covered Part D drugs in accordance with electronic prescription standards, including initial standards and final standards established by CMS once final standards are effective. Any payments must be in compliance with applicable Federal and State laws related to fraud and abuse, including the physician self-referral prohibition (section 1877 of the Act) and the Federal anti kickback statute (section 1128B(b) of the Act).

[70 FR 4525, Jan. 28, 2005, as amended at 70 FR 67593, Nov. 7, 2005]

§ 423.160 Standards for electronic prescribing.

(a) *General rules.* (1) Part D sponsors must establish and maintain an electronic prescription drug program that complies with the applicable standards in paragraph (b) of this section when transmitting, directly or through an intermediary, prescriptions and prescription-related information using electronic media for covered Part D drugs for Part D eligible individuals.

(2) Except as provided in paragraph (a)(3) of this section, prescribers and dispensers that transmit, directly or through an intermediary, prescriptions and prescription-related information using electronic media must comply with the applicable standards in paragraph (b) of this section when e-prescribing for covered Part D drugs for Part D eligible individuals.

(3) *Exemptions.* (i) Until January 1, 2012, entities transmitting prescriptions or prescription-related information by means of computer-generated facsimile are exempt from the requirement to use the NCPDP SCRIPT Standard adopted by this section in transmitting such prescriptions or prescription-related information. After January 1, 2012, entities transmitting prescriptions or prescription-related information must utilize the NCPSP SCRIPT standard in all instances other than temporary/transient network transmission failures.

(ii) After January 1, 2009, electronic transmission of prescriptions or prescription-related information by means of computer-generated facsimile is only permitted in instances of temporary/transient transmission failure